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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW A325
Washington, D.C. 20554

Re: Response of SBC Communications Inc. in Opposition to WorldCom Inc.'s Application for Review for CC Docket No. 97-172/DA 99-2345.

Dear Ms. Salas:

Attached please find the original and copies of the Response of SBC Communications Inc. in Opposition to WorldCom Inc.'s Application for Review submitted for filing in captioned proceeding.

Thank you for your assistance in this matter.

A handwritten signature in cursive script that reads "Lori A. Fink".

Lori A. Fink,
Senior Counsel

Attachments

No. of Copies rec'd 043
List A B C D E

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Petition of SBC Communications Inc.)
For Forbearance of Structural Separation)
Requirements and Request for Immediate)
Interim Relief in Relation to the Provision of)
Nonlocal Directory Assistance Services)

CC Docket No. 97-172
DA 99-2345

**RESPONSE of SBC COMMUNICATIONS INC. in OPPOSITION to WORLDCom INC.'s
APPLICATION for REVIEW**

SBC Communications Inc. (SBC), on behalf of Pacific Bell, Southwestern Bell Telephone Company (SWBT) and Ameritech Operating Companies (Ameritech), files the following response in opposition to WorldCom, Inc.'s (WorldCom's) Application for Review.

I. Introduction

The Commission did not err in its Order dated April 11, 2000, by granting Pacific Bell, SWBT, and Ameritech forbearance, in part, from complying with the requirements under Section 272 for purposes of providing their Nonlocal Directory Assistance (NDA) services. These operating companies have either met the nondiscrimination obligation at the present or sent out notification to its carrier customers advising them of the obligation to make in-region directory listing information (used in a Bell Operating Company's (BOC's) NDA service) available to other unaffiliated carriers.

WorldCom contends that the SBC did not meet the criteria set forth under Section 10 of the Federal Telecommunications Act of 1996 (the Act). Section 10 provides in pertinent part that:

(a) Regulatory Flexibility. – Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that –

(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

(3) forbearance from applying such provision of regulation is consistent with the public interest.

(b) Competitive Effect to be Weighed. – In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a commission finding that forbearance is in the public interest.

The Commission, in reaching its decision to grant certain SBC affiliates forbearance, in part, from Section 272 requirements, determined that the Section 10 criteria had been met. The Commission applied the requirements set forth in the U S WEST Order and, in particular, found that the nondiscrimination obligation under Section 272 should remain applicable with respect to in-region directory listing information used to provide NDA services. Commission's April 11 Order, at n. 42. The Commission also found that the second criterion had been met by retaining

the nondiscrimination obligation under Section 272(c)(1). The Commission stated that this requirement “should stimulate the entry of new providers of nonlocal directory assistance service, which, in turn, will encourage the providers of these services to compete on the basis of price and quality.” *Id.* at para. 16. The third criterion, according to the Commission’s Order was also met since the public interest would be served by permitting NDA to be provided on an integrated basis that will enable SBC’s BOC affiliates “to be more effective competitors in the nonlocal directory assistance services market.” *Id.* at para. 17.

WorldCom has not refuted any of the reasons stated by the Commission that formed the basis of the Commission’s decision to grant SBC forbearance, in part, from Section 272. WorldCom has raised some issues with respect to the appropriateness of the rates charged for the directory assistance listing information and the Commission determined that the Accounting Safeguards should address concerns with respect to imputation of rates and the impact on competition in this market. *Id.* at 20. SBC has set forth below specific responses to the various other allegations raised by WorldCom.

II. Pacific Bell has complied with the Commission’s Forbearance Order

Pacific Bell does not include in-region directory assistance listing information in its NDA service unless the listings may be provided to third parties on a nondiscriminatory basis. Pacific Bell is subject to the requirements of the Commission’s partial grant of forbearance as well as any orders or regulations of the California Public Utility Commission (CPUC). The CPUC requires that before a carrier’s listings may be released to other third party vendors, Pacific Bell must obtain the authorization of the carrier with the listing information. Specifically, the CPUC held that “[t]he LEC shall not provide CLC [competitive local carrier] listing information to third-party vendors without the express permission of the CLC and a

mutually agreeable arrangement for compensation to the CLC for provision of such information.”¹ In order to comply with both the CPUC Order and the Commission’s Forbearance Order, Pacific Bell, in December 1999, removed the third party carriers’ in-region nonlocal listings from use in Pacific Bell’s NDA service if those carriers had not authorized release of their directory listing information. Pacific’s removal of in-region listing information from its NDA service meets the requirements set forth in the Commission’s April 11 Order. The Commission ordered that Pacific Bell take the following actions:

- (1) make available to unaffiliated entities all of the directory listing information that they use to provide regionwide directory assistance service at the same rates, terms, and conditions they impute to themselves;
- (2) make changes to their cost allocation manuals to reflect this accounting change; and
- (3) update and maintain the directory listing information they provide to unaffiliated entities in the same manner they update and maintain the directory listing information they use in the provision of nonlocal directory assistance service.²

Pacific Bell has met its obligations contrary to WorldCom’s assertion that Pacific Bell was not making directory listing information available on a nondiscriminatory basis.

III. SWBT’s NDA Service Complies with the Commission’s April 11, 2000 Order

WorldCom makes specific allegations with respect to SWBT’s NDA offerings in Texas.

SWBT provides its in-region directory assistance listings in Texas to other unaffiliated entities

¹ *Order Instituting Rulemaking on the Commission’s Own Motion into Competition for Local Exchange Service*, Docket No. R.95-04-043 and *Order Instituting an Investigation on the Commission’s Own Motion into Competition for Local Exchange Service*, Docket No. I.95-04-044, at p. 34 (January 23, 1997).

² *In the Matter of BellSouth Petition for Forbearance for Nonlocal Directory Assistance Service, Petition of SBC Communications Inc. for Forbearance of Structural Separation Requirements and Request for Immediate Interim Relief in Relation to the Provision of Nonlocal Directory Assistance Services, petition of Bell Atlantic for Further Forbearance from Section 272*

on the same rates, terms, and conditions that it imputes to itself. Further, the market-based rate charged to other CLECs, such as WorldCom, has been agreed to in Texas in the Texas 271 Agreement,³ approved by the Texas Public Utility Commission (PUC) in its Order 55 (Project No. 16251). The reference by WorldCom to SWBT's costs of \$0.0011 per listing is based on the costs that the Texas PUC established when directory assistance listings were considered unbundled network elements rather than a competitive service. This \$0.0011 cost, when established, was only designed to cover the cost of downloading listing information into an electronic transmission format and did not recognize any costs of administering the information, sorting the information or any market value information. The Commission, in its UNE Remand Order, recognized that directory assistance listings are competitive services and must be provided under Section 251(b)(3). This would require that these services be made available at market-based prices instead of at TELRIC prices for unbundled network elements under Section 251(c).⁴ The rates imputed to SWBT are the same market-based rates that SWBT charges other entities for in-region listing information per the Texas 271 Agreement – i.e., \$0.0585 per listing. SWBT's Cost Allocation Manual (CAM) filings made with the FCC in December 1999⁵ indicates that SWBT is complying with the imputation requirement. Thus, there is no basis for

Requirements in Connection with National Directory Assistance Services, CC Docket No., 97-172, Memorandum Opinion and Order, DA 00 514, at para. 15 (rel. April 11, 2000).

³ See Attachment DLI-TX, page 3 of 3, at para. 8.1

⁴ See generally *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*; Docket No. 96-98, at paras. 441-42 and 473.

⁵ On December 16, 1999, the Permanent Cost Allocations Manual for the Separation of Regulated and Nonregulated Costs for Nevada Bell, Pacific Bell and Southwestern Bell Telephone Company, was filed with the Commission with a noted revision to show that directory listing services are treated as nonregulated. On December 16, 1999, the Ameritech Operating Companies' Submission of Revisions to their Cost Allocation Manual Pursuant to C.F.R., Section 64.903, Cost Allocation Manuals was filed with the Commission and it also noted the NDA services are treated as nonregulated.

WorldCom's contention that SWBT-Texas is not complying with the cost imputation requirements ordered by the Commission with respect to SBC's Petition for Forbearance.

Further, the FCC, in its Subscriber List Information (SLI) Order, found that the price of four to six cents per listing for subscriber listing information (name, address and telephone number) was a "presumptively reasonable" cost-based price.⁶ SWBT's rates for directory assistance listings used for NDA falls with the "presumptively reasonable" parameters discussed in the SLI Order. Since WorldCom markets directory assistance information obtained from SWBT for as much as \$1.49 per listing, an allegation that the costs imputed to SWBT (\$.0585) are unreasonable is unfounded.

In all of SWBT's operating territories (Texas, Oklahoma, Kansas, Arkansas and Missouri), SWBT makes available all directory assistance listings in its regionwide databases, regardless of the underlying carrier. These listings will be made available to unaffiliated entities on the same rates that are imputed to SWBT as noted in its December 1999 CAM.

IV. SNET's NDA Service Originates Out-of-Region and is Beyond the Scope of SBC's Petition for Forbearance.

WorldCom's concerns with whether SNET makes its directory assistance listing information available to other entities is not at issue in this proceeding. SBC did not file its Petition for Forbearance on behalf of any SNET affiliate. SNET's NDA service originates out-of-region and forbearance from Section 272 is not required. *See* Section 272 (a)(2)(B)(ii).

⁶ *See In the Matters of Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96-115; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98; Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended, CC Docket No. 99-273; Third Report and Order in CC Docket No. 96-115, Second Order on Reconsideration of the Second report and Order in CC Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273, at paras. 92-104 (rel. September 9, 1999).*

Accordingly, WorldCom's arguments are misplaced and are not relevant with respect to the Commission's Order granting certain SBC affiliates forbearance, in part, from Section 272.

V. Ameritech Has Taken Reasonable Steps to Make its Directory Listing Information Available to Other Carriers Consistent with the Commission's Order

On February 16, 2000, Ameritech Information Industry Services (AIIS), on behalf of the Ameritech Operating Companies, notified third party carriers that provide directory listing information to Ameritech's directory assistance database, that Ameritech intended to provide this information to unaffiliated entities. Ameritech explained that local exchange carriers are required, under Section 251, to provide their directory assistance listings to competing carriers and that Ameritech would make this information available to qualified requesting carriers under the same terms and conditions that AIIS provides Ameritech's listings. This notification indicated the release of this information no sooner than 30 days after the date of the letter. To date, three carriers have objected to AIIS releasing their listing information to qualified unaffiliated entities. Ameritech will make every effort to reach a satisfactory arrangement with those carriers. Ameritech is in a position to release the remaining listings, outside of the listings of the three carriers, and make these listings available to WorldCom within the next 30 days upon terms that Ameritech anticipates will be mutually acceptable to WorldCom.

Ameritech, unlike SWBT or Pacific Bell, utilizes one database for both local and NDA services. The segregation of listing information from the database would mean that the information is removed with respect to both local and NDA services. Once a listing is removed, it could not be used in the local or NDA services. This would create a problem for those carriers that still want to have the listings made available for local DA, but not for the NDA services, which is a situation that neither the carrier, nor its customers, wants. Ameritech has attempted to

reach acceptable solutions and will continue to work on meeting the requirements and reaching an agreement with the three carriers.

VI. This Proceeding Should Not Serve as the Forum for Complaints

The Commission has already addressed the fact that this Proceeding should not be the forum for complaints that SBC has failed to comply with the requirements of the April 11 Order. To the extent that WorldCom has a complaint regarding SBC's compliance with the Commission's April 11 Order, an enforcement proceeding is more appropriate. There have been no arguments raised that would justify changing the parameters of the Commission's April 11 Order that governs Pacific Bell, SWBT and Ameritech. Each of these operating companies are subject to different state regulatory requirements that impact the analysis. When complaints arise, they should be considered based upon the facts unique to the NDA service in question and not this proceeding.

VII. Conclusion

SBC is meeting its obligations with respect to the criteria set forth in the Commission's April 11, 2000 Order and the U S WEST Order. The underlying foundation for WorldCom's Application is not well-founded in fact and does not form the basis for granting WorldCom's Application for Review.

WHEREFORE, SBC respectfully requests the Commission deny WorldCom's Application for Review.

Respectfully submitted,

SBC COMMUNICATIONS INC.

By: Lori A. Fink

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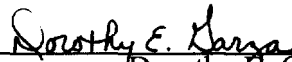
(202) 326-8895

Attorney for SBC Communications Inc.
and its Subsidiaries

May 26, 2000

CERTIFICATE OF SERVICE

On this 26^h day of May 2000, I, Dorothy E. Garza, hereby certify that the foregoing "Response of SBC Communications Inc. in Opposition to WorldCom Inc.'s Application for Review," in CC 97-172, DA 99-2345 have been served upon the parties listed in the Service List attached to the Application for Review.



Dorothy E. Garza

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